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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140403309-4309-01]

RIN 0648-BE16

Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Fishing Year 2014

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes management measures for the 2014 summer flounder, scup, and black sea bass recreational fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the fishing year and to provide an opportunity for public comment. The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources.

DATES: Comments must be received by 5 p.m. local time, on [insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified NOAA-NMFS-2014-0047, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-

Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0047)

[0047](#), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- Mail and Hand Delivery: John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: “Comments on 2014 FSB Recreational Measures.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of the Supplemental Environmental Assessment and Initial Regulatory Flexibility Analysis (SEA/IRFA) and other supporting documents for the recreational harvest measures are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The recreational harvest measures document is also accessible via the Internet at: <http://www.nero.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978) 281-9218.

SUPPLEMENTARY INFORMATION:

## General Background

The summer flounder, scup, and black sea bass fisheries are managed cooperatively under the provisions of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) developed by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission, in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include summer flounder (Paralichthys dentatus) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border, and scup (Stenotomus chrysops) and black sea bass (Centropristis striata) in U.S. waters of the Atlantic Ocean from 35 E. 13.3' N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, North Carolina) northward to the U.S./Canada border.

The Council prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 et seq. Regulations implementing the FMP appear at 50 CFR part 648, subparts A (general provisions), G (summer flounder), H (scup), and I (black sea bass). General regulations governing fisheries of the Northeastern U.S. also appear at 50 CFR part 648. States manage these three species within 3 nautical miles (4.83 km) of their coasts, under the Commission's plan for summer flounder, scup, and black sea bass. The applicable species-specific Federal regulations govern vessels and individual fishermen fishing in Federal waters of the exclusive economic zone (EEZ), as well as vessels possessing a summer flounder, scup, or black sea bass Federal charter/party vessel permit, regardless of where they fish.

## Recreational Management Measures Background

The Council process for devising recreational management measures to recommend to NMFS for rulemaking is generically described in the following section. All meetings are open to the public and the materials utilized during such meetings, as well as any documents created to summarize the meeting results, are public information and typically posted on the Council's web site ([www.mafmc.org](http://www.mafmc.org)) or are available from the Council by request. Extensive background on the 2014 recreational management measures recommendation process is therefore not repeated in this preamble.

The FMP established monitoring committees for the three fisheries, consisting of representatives from the Commission, the Council, state marine fishery agency representatives from Massachusetts to North Carolina, and NMFS. The FMP's implementing regulations require the monitoring committees to review scientific and other relevant information annually and to recommend management measures necessary to constrain landings within the recreational harvest limits established for the summer flounder, scup, and black sea bass fisheries for the upcoming fishing year. The FMP limits the choices for the types of measures to minimum fish size, possession limit, and fishing season.

The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board then consider the monitoring committees' recommendations and any public comment in making their recommendations to the Council and the Commission, respectively. The Council reviews the recommendations of the Demersal Species Committee, makes its own recommendations, and forwards them to NMFS for review. The Commission similarly adopts recommendations for the states. NMFS is required to review the Council's recommendations to ensure that they are consistent with the targets specified for

each species in the FMP and all applicable laws and Executive Orders before ultimately implementing measures for Federal waters.

In this rule, NMFS proposes management measures for the 2014 summer flounder, scup, and black sea bass recreational fisheries. All minimum fish sizes discussed hereafter are total length measurements of the fish, i.e., the straight-line distance from the tip of the snout to the end of the tail while the fish is lying on its side. For black sea bass, total length measurement does not include the caudal fin tendrils. All possession limits discussed below are per person.

#### Proposed 2014 Recreational Management Measures

NMFS is proposing the following measures that would apply in the Federal waters of the EEZ and to all federally permitted party/charter vessels with applicable summer flounder, scup, or black sea bass permits regardless of where they fish for the 2014 recreational summer flounder, scup, and black sea bass fisheries. For summer flounder, use of state-by-state or regional conservation equivalency measures, which are the status quo measures; for scup, a 9-inch (25.4-cm) minimum fish size, a 30-fish per person possession limit, and an open season of January 1 through December 31; and, for black sea bass, a 12.5-inch (31.8-cm) minimum fish size, a 15-fish per person possession limit for open seasons of May 19 through September 18 and October 18 through December 31. NMFS may implement more restrictive black sea bass measures, as recommended by the Council (i.e., a 12.5-inch (31.8-cm) minimum fish size, a 5-fish per person possession limit, and an open season of June 1-September 5), for Federal waters if the Commission is unable to develop and implement state-waters measures that, when paired with the Council's recommended measures, provide the necessary conservation to ensure the 2014 recreational harvest limit will not be exceeded. More detail on these proposed measures is

provided in the following sections.

#### Summer Flounder Recreational Management Measures

NMFS proposes to implement the use of conservation equivalency to manage the 2014 summer flounder recreational fishery. The 2014 recreational harvest limit for summer flounder is proposed to be 7.01 million lb (3,179 mt), as published in the proposed rule to implement an adjustment to the 2014 summer flounder specifications based on an updated stock assessment. (March 31, 2014; 79 FR 17995). Projected landings for 2013 are approximately 7.11 million lb (3,225 mt), which is above the proposed recreational harvest limit for 2014. As a result, the 2014 recreational landings must be reduced relative to 2013 to prevent the recreational harvest limit from being exceeded. The Council and Commission have recommended the use of conservation equivalency to manage the 2014 summer flounder recreational fishery.

NMFS implemented Framework Adjustment 2 to the FMP on July 29, 2001 (66 FR 36208), to permit the use of conservation equivalency to manage the recreational summer flounder fishery. Conservation equivalency allows each state to establish its own recreational management measures (possession limits, minimum fish size, and fishing seasons) to achieve its state harvest limit partitioned by the Commission from the coastwide recreational harvest limit, as long as the combined effect of all of the states' management measures achieves the same level of conservation as would Federal coastwide measures. Framework Adjustment 6 (July 26, 2006; 71 FR 42315) allowed states to form regions for conservation equivalency in order to minimize differences in regulations for individuals fishing in adjacent waters.

The Council and Board annually recommend that either state- or region-specific recreational measures be developed (conservation equivalency) or coastwide management

measures be implemented to ensure that the recreational harvest limit will not be exceeded. Even when the Council and Board recommend conservation equivalency, the Council must specify a set of coastwide measures that would apply if conservation equivalency is not approved for use in Federal waters.

When conservation equivalency is recommended, and following confirmation that the proposed state or regional measures developed through the Commission's technical and policy review processes achieve conservation equivalency, NMFS may waive the permit condition found at § 648.4(b), which requires Federal permit holders to comply with the more restrictive management measures when state and Federal measures differ. In such a situation, federally permitted summer flounder charter/party permit holders and individuals fishing for summer flounder in the EEZ would then be subject to the recreational fishing measures implemented by the state in which they land summer flounder, rather than the coastwide measures.

In addition, the Council and the Board must recommend precautionary default measures when recommending conservation equivalency. The Commission would require adoption of the precautionary default measures by any state that either does not submit a summer flounder management proposal to the Commission's Summer Flounder Technical Committee, or that submits measures that would exceed the Commission-specified harvest limit for that state.

Much of the conservation equivalency measures development process happens at both the Commission and individual state level. The selection of appropriate data and analytic techniques for technical review of potential state conservation equivalent measures and the process by which the Commission evaluates and recommends proposed conservation equivalent measures is wholly a function of the Commission and its individual member states. Individuals seeking

information regarding the process to develop specific state measure or the Commission process for technical evaluation of proposed measures should contact the marine fisheries agency in the state of interest, the Commission, or both.

The Commission has implemented an addendum to its Summer Flounder FMP to implement regional conservation equivalency for fishing year 2014. The Commission adopted the following regions: (1) Massachusetts; (2) Rhode Island; (3) Connecticut, New York, and New Jersey; (4) Delaware, Maryland, and Virginia; and (5) North Carolina. These regions are intended to minimize differences in regulations for anglers fishing in the same waters, while allowing for differences in fish size and availability for each state, and to address New York's long-standing concerns regarding the equity of the 1998 state allocations. Each state within a region is required by the Council and Commission FMPs to have identical measures. In order to provide the maximum amount of flexibility and to continue to adequately address the state-by-state differences in fish availability, each state in a region is required to establish fishing seasons of the same length, identical minimum fish sizes, and identical possession limits. The Commission will need to certify that these measures, in combination, are the conservation equivalent of coastwide measures that would be expected to result in the recreational harvest limit being achieved, but not exceeded. More information on this addendum is available from the Commission ([www.asafc.org](http://www.asafc.org)).

Once the regions select their final 2014 summer flounder management measures through their respective development, analytical, and review processes and submit them to the Commission, the Commission will conduct further review and evaluation of the submitted proposals, ultimately notifying NMFS as to which proposals have been approved or disapproved.



NMFS has no overarching authority in the development of state or Commission management measures, but is an equal participant along with all the member states in the review process. NMFS retains the final authority either to approve or to disapprove the use of conservation equivalency in place of the coastwide measures in Federal waters, and will publish its determination as a final rule in the Federal Register to establish the 2014 recreational measures for these fisheries.

States that do not submit conservation equivalency proposals, or whose proposals are disapproved by the Commission, will be required by the Commission to adopt the precautionary default measures. In the case of states that are initially assigned precautionary default measures, but subsequently receive Commission approval of revised state measures, NMFS will publish a notice in the Federal Register announcing a waiver of the permit condition at § 648.4(b).

The 2014 precautionary default measures recommended by the Council and Board are for a 20.0-inch (50.8-cm) minimum fish size, a possession limit of two fish, and an open season of May 1 through September 30, 2014.

In this action, NMFS proposes to implement conservation equivalency with a precautionary default backstop, as previously outlined, for states that either fail to submit conservation equivalent measures or whose measures are not approved by the Commission. NMFS proposes the alternative of coastwide measures (18-inch (45.7-cm) minimum size, 4-fish possession limit, May 1-September 30 open fishing season), if conservation equivalency is not approved in the final rule. The coastwide measures would be waived if conservation equivalency is approved in the final rule.

Scup Recreational Management Measures

NMFS is proposing to implement the Council and Commission's recommended scup recreational management measures for 2014 in Federal waters. The 2014 scup recreational harvest limit is 7.03 million lb (3,188 mt), as published in the final rule (December 31, 2012; 77 FR 76942). Estimated 2013 scup recreational landings are 5.36 million lb (2,431 mt), well below the 2014 recreational harvest limit, therefore, no reduction in landings is needed. The Council and Commission's recommended measures for the 2014 scup recreational fishery are for a 9-in (22.9-cm) minimum fish size, a 30-fish per person possession limit, and an open season of January 1 through December 31. These measures are intended to promote an increase in recreational scup fishing in order to achieve the recreational harvest limit.

#### Black Sea Bass Recreational Management Measures

NMFS is proposing to implement the Council's recommended recreational management measures to reduce landings for black sea bass. The proposed 2014 black sea bass recreational harvest limit is 2.26 million lb (1,025 mt). The 2013 black sea bass recreational landings limit was the same, and the projected landings at the time that the Council and Board met to recommend 2014 measures were 2.46 million lb (1,115 mt). This would require a 7-percent reduction in 2014 landings relative to 2013. More recent data indicate that the 2013 recreational black sea bass landings were approximately 2.33 million lb (1,058 mt), or 3.2 percent over the 2013 and 2014 recreational harvest limits.

In 2012, recreational black sea bass catch exceeded the 2012 annual catch limit of 2.52 million lb (1,143 mt) by 129 percent, with total catch estimates approximately 5.78 million lb (2,620 mt). As a result, the recently implemented recreational accountability measure needs to be addressed for the 2014 fishing year. The Council's recreational accountability measure

system requires, for stocks in a healthy condition such as black sea bass, that the Council take into account the overage and the performance of the management measures when setting a subsequent year's management measures. The Council contends that utilizing the process that they have always used (i.e., comparing last year's landings to this year's harvest limit) is in compliance with the accountability measure.

However, NMFS disagrees with the Council's interpretation. The recreational accountability measures were revised last year in response to a pending pound-for-pound payback that would have otherwise been implemented for this year. In the Omnibus Recreational Accountability Measures Amendment (December 19, 2013; 78 FR 76759), the accountability measure was described as resulting in the Council doing something different than what had previously been done if triggered. That is, the accountability measure requires that the Council take the overage and the poor performance of the management measures "into account." This may result in the subsequent year's management measures being "less liberal, or more restrictive than otherwise would have been, had the overage not occurred." This could also mean that the process by which the management measures are set (updated data, more precise estimates of catch per angler per day, etc.) has been improved upon as a result of the poor performance of the management measures, or other decisions or improvements that allow the Council to make a more informed decision and implement management measures with more confidence in their performance. The Council has not sufficiently demonstrated how the "performance review" included the overage from 2012 when setting the 2014 management measures. It appears that the Council's process was the same as it would have been had the overage not occurred and the accountability measure not been triggered.

Nevertheless, because the reduction in recreational black sea bass landings required from 2013 to 2014 may actually be only 3.2 percent based on more recent estimates, NMFS has preliminarily determined that the Council's proposed measures would comply with the accountability measures. Given the magnitude of the 2012 overage and the additional overage in 2013, a 7-percent reduction has a higher likelihood of preventing the recreational harvest limit from being exceeded again.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Council prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA), which is included in the Supplemental EA and supplemented by information contained in the preamble to this proposed rule. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section of the preamble and in the SUMMARY of this proposed rule. A summary of the IRFA follows. A copy of this analysis is available from the Council (see ADDRESSES).

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This proposed rule does not duplicate, overlap, or conflict with other Federal

rules.

#### Description and Estimate of Number of Small Entities to Which the Rule Would Apply

The proposed recreational management measures could affect any recreational angler who fishes for summer flounder, scup, or black sea bass in the EEZ or on a party/charter vessel issued a Federal permit for summer flounder, scup, and/or black sea bass. However, the only regulated entities affected by this action are party/charter vessels issued a Federal permit for summer flounder, scup, and/or black sea bass, and so the IRFA focuses upon the expected impacts on this segment of the affected public. These vessels are all considered small entities for the purposes of the RFA, i.e., businesses in the recreational fishery with gross revenues of up to \$7.0 million. These small entities can be specifically identified in the Federal vessel permit database and would be impacted by the recreational measures, regardless of whether they fish in Federal or state waters. Although fishing opportunities by individual recreational anglers may be impacted by this action, they are not considered small entities under the RFA.

The Council estimated that the proposed measures could affect any of the 777 vessels possessing a Federal charter/party permit for summer flounder, scup, and/or black sea bass in 2012, the most recent year for which complete permit data are available. However, only 346 vessels reported active participation in the 2012 recreational summer flounder, scup, and/or black sea bass fisheries. Further, it was determined, based on improved ownership information, that there were 326 unique fishing business entities. The vast majority of these fishing businesses were solely engaged in for-hire fishing, but some also earned revenue from shellfish and/or finfish fishing. The highest percentage of annual gross revenues though for all 326 fishing businesses was from for-hire fishing. In other words, the revenue from for-hire fishing was

greater than the revenue from shellfishing and the revenue from finfish fishing for all 326 business entities. Therefore, all of the affected business entities are classified as for-hire business entities in this analysis.

According to the SBA size standards small for-hire fishing businesses are defined as firms with annual receipts of up to \$7 million. Average annual gross revenue estimates calculated from the most recent 3 years (2010-2012) indicate that none of the 326 business entities earned more than \$2.4 million from all of their fishing activities (for-hire, shellfish, and finfish). Therefore, all of the affected business entities are considered “small” by the SBA size standards; thus, this action will not disproportionately affect small versus large entities.

#### Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives

The IRFA identified three alternatives in this action: The no-action alternative; the status quo alternative; and the preferred alternative. The no-action alternative (i.e., maintenance of the regulations as codified) is: (1) For summer flounder, coastwide measures of a 18-inch (45.7-cm) minimum fish size, a 4-fish possession limit, and an open season from May 1 through September 30; (2) for scup, a 10-inch (25.4-cm) minimum fish size, a 30-fish possession limit, and an open season of January 1 through December 31; and (3) for black sea bass, a 12.5-inch (31.8-cm) minimum size, a 20-fish possession limit for open seasons of May 19 through October 14 and November 1 through December 31. The status quo alternative is: (1) For summer flounder, conservation equivalency, with precautionary default measures of a 20-inch (50.8-cm) minimum fish size, a 2-fish possession limit, and an open season of May 1 through September 30; and (2) for scup and black sea bass, the same as the no action alternative. The proposed alternative is: (1) For summer flounder, the same as the status quo alternative; (2) for scup, a 9-inch (22.9-cm)

minimum fish size, a 30-fish possession limit, and an open season of January 1 through December 31; and (3) for black sea bass, a 12.5-inch (31.8-cm) minimum fish size, and a 15-fish possession limit for open seasons of May 19 through September 18 and October 18 through December 31.

The impacts of the alternatives on small entities (i.e., federally permitted party/charter vessels in each state in the Northeast region) were analyzed, assessing potential changes in gross revenues for all 18 combinations of alternatives proposed. Although NMFS's RFA guidance recommends assessing changes in profitability as a result of proposed measures, the quantitative impacts were instead evaluated using expected changes in party/charter vessel revenues as a proxy for profitability. This is because reliable cost and revenue information is not available for charter/party vessels at this time. Without reliable cost and revenue data, profits cannot be discriminated from gross revenues. As reliable cost data become available, impacts to profitability can be more accurately forecast. Similarly, changes to long-term solvency were not assessed, due both to the absence of cost data and because the recreational management measures change annually according to the specification-setting process. Effects of the various management measures were analyzed by employing quantitative approaches, to the extent possible. Where quantitative data were not available, qualitative analyses were utilized.

The proposed action is as or only slightly more restrictive than the other alternatives considered, and provides the same or slightly less opportunity for recreational fishing. It is expected that the affected regulated entities will be able to maximize fishery-related revenue under the preferred alternative relative to the non-preferred alternatives, while maintaining long-term fishery health. The preferred alternative for scup would decrease the minimum size, and,

thus would provide a slight economic benefit. The preferred alternative for black sea bass is more restrictive than the status quo, but it would constrain recreational landings to the appropriate level and maintain long-term fishery stability. In contrast, the non-preferred alternatives for scup would result in a larger minimum size, and the non-preferred alternatives for black sea bass that would not constrain recreational landings to the appropriate level.

For summer flounder, the preferred alternative for conservation equivalency is expected to maintain fishing opportunities because, under the Commission's plan, almost all states are authorized to maintain increase landings in 2014. The Commission has also proposed an addendum to implement 2014 recreational fishing rules for summer flounder that would result in more consistent regulations for anglers in adjacent states, minimizing confusion and resulting in more equitable fishing opportunities.

NMFS did not consider any alternatives that would provide additional fishing opportunities beyond what was recommended by the Council because any such alternative would increase the risk of the fishery exceeding the recreational harvest limit, which could result in overfishing the stock and/or exceeding the annual catch limit. This would be contrary to the goals and objectives of the Magnuson-Stevens Act.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.



List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 6, 2014

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

**PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES**

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. Section 648.107 is revised to read as follows:

§ 648.107 Conservation equivalent measures for the summer flounder fishery.

(a) The Regional Administrator has determined that the recreational fishing measures proposed to be implemented by the states of Maine through North Carolina for 2014 are the conservation equivalent of the season, minimum size, and possession limit prescribed in §§ 648.102, 648.103, and 648.105(a), respectively. This determination is based on a recommendation from the Summer Flounder Board of the Atlantic States Marine Fisheries Commission.

(1) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels harvesting summer flounder in or from the EEZ and subject to the recreational fishing measures of this part, landing summer flounder in a state whose fishery management measures are determined by the Regional Administrator to be conservation equivalent shall not be subject to the more restrictive Federal measures, pursuant to the provisions of § 648.4(b). Those vessels shall be subject to the recreational fishing measures implemented by the state in which they land.

(2) [Reserved]

(b) Federally permitted vessels subject to the recreational fishing measures of this part, and other recreational fishing vessels registered in states and subject to the recreational fishing measures of this part, whose fishery management measures are not determined by the Regional Administrator to be the conservation equivalent of the season, minimum size and possession limit prescribed in §§ 648.102, 648.103(b), and 648.105(a), respectively, due to the lack of, or the reversal of, a conservation equivalent recommendation from the Summer Flounder Board of

the Atlantic States Marine Fisheries Commission shall be subject to the following precautionary default measures: Season - May 1 through September 30; minimum size - 20 inches (50.8 cm); and possession limit - two fish.

3. In § 648.126, paragraph (b) is revised to read as follows:

§ 648.126 Scup minimum fish sizes.

\* \* \* \* \*

(b) Party/Charter permitted vessels and recreational fishery participants. The minimum size for scup is 9 inches (22.9 cm) TL for all vessels that do not have a moratorium permit, or for party and charter vessels that are issued a moratorium permit but are fishing with passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat.

\* \* \* \* \*

4. In § 648.145, paragraph (a) is revised to read as follows:

§ 648.145 Black sea bass possession limit.

(a) During the recreational fishing season specified at § 648.146, no person shall possess more than 15 black sea bass in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a black sea bass moratorium permit, or is issued a black sea bass dealer permit. Persons aboard a commercial vessel that is not eligible for a black sea bass moratorium permit may not retain more than 15 black sea bass during the recreational fishing season specified at § 648.146. The owner, operator, and crew of a charter or party boat issued a black sea bass moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew

members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.142.

\* \* \* \* \*

5. Section 648.146 is revised to read as follows:

§ 648.146 Black sea bass recreational fishing season.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(7), and fishermen subject to the possession limit specified in § 648.145(a), may only possess black sea bass from May 19 through September 18, and October 18 through December 31, unless this time period is adjusted pursuant to the procedures in § 648.142.

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